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NOV 20 2009

Clerk of Court  
CLERK OF COURT

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David B. Sanders, Esq.  
Nevada State Bar No. 7895  
Huong X. Lam, Esq.  
Nevada State Bar No. 10916  
THE COOPER CASTLE LAW FIRM, LLP  
820 S. Valley View Blvd.  
Las Vegas, Nevada 89107  
(702) 435-4175 Telephone  
*Attorneys for Defendant*  
*Noteworld, LLC*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

MARK BERNSTEIN, an Individual )

Plaintiff, )

vs. )

Case No. A-09-596386-C )

Dept. No. IX )

NOTEWORLD, LLC, a Foreign Limited )

Liability Company; SALVADOR )

RODRIGUEZ, an Individual; DOES I - X, )

Inclusive; and ROE Corporations I - X, )

Inclusive, )

Defendants. )

Date: November 24, 2009 )

Time: 9:00 a.m. )

A-09-596386-C  
537579

**DEFENDANT NOTEWORLD, LLC'S REPLY IN SUPPORT OF MOTION TO  
DISMISS OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT**

**and**

**OPPOSITION TO COUNTERMOTION FOR LEAVE TO FILE  
PLAINTIFF'S FIRST AMENDED COMPLAINT**

COMES NOW Defendants, NOTEWORLD, LLC (hereinafter "Noteworld") by and  
through its counsel of record, THE COOPER CASTLE LAW FIRM, LLP, and hereby submits  
its Reply in Support of Motion to Dismiss, or in the alternative, Motion for Summary  
Judgment, and Opposition to Countermotion for Leave to File Plaintiff's First Amended  
Complaint.

//

//

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NOV 20 2009

CLERK OF THE COURT

- 1 -

THE COOPER CASTLE LAW FIRM, LLP  
820 South Valley View Blvd. Las Vegas, Nevada 89107  
Phone (702) 435-4175 • Fax (702) 877-7424

**POINTS AND AUTHORITIES**

**I. Introduction**

Defendant Noteworld's Reply purely tests the ability of Plaintiff to present claims under the legal theories alleged and will address the arguments presented in Plaintiff's Opposition. Dismissal with prejudice is necessary in this matter because Plaintiff's Complaint is legally deficient and fails to state a claim upon which relief can be granted.

Plaintiff's Opposition to Noteworld's Motion to Dismiss, or in the alternative, for Summary Judgment, fails to address fundamental flaws in Plaintiff's Complaint and attempts to cloud the issue with unsubstantiated allegations. As such, Plaintiff thereby concedes that Plaintiff's Complaint fails to state a claim upon which relief by this defendant can be granted. Even accepting each allegation in Plaintiff's Complaint as true and drawing all justifiable inferences in his favor, Plaintiff cannot establish or maintain any cause of action against Noteworld.

Plaintiff's Complaint for Quiet Title pursuant to NRS 40.010 should be dismissed with prejudice. Alternatively, it is respectfully requested this Court enter summary judgment in favor of Noteworld on Plaintiff's claim for Quiet Title. It is further requested that Plaintiff's Countermotion for leave to amend the Complaint be denied.

**II. Plaintiff's Complaint for Quiet Title Against Defendant Noteworld Should Be Dismissed with Prejudice, or in the alternatively, Summary Judgment Should be Granted in Favor of Defendant Noteworld.**

Dismiss, or in the alternative, summary judgment is proper in this case because there is no need for any discovery in this case. As a preliminary matter, the very nature of Noteworld's Motion negates any need for discovery. Even if the Court were to accept as true all facts contained in the Complaint, Plaintiff's claim against Noteworld for Quiet Title fails on its face. Zalk-Josephs Co. v. Wells Cargo, Inc., 81 Nev 163, 400 P.2d 621 (1965); Simpson v. Mars,

1 Inc., 113 Nev. 188, 929 P.2d 966 (1997). If this Court were to adjudicate the matter on the  
2 merits and quiet title in the Property in Plaintiff, Noteworld makes no claim to possession or  
3 interest to the Property. As such, Plaintiff's claim for Quiet Title pursuant to NRS 40.010 must  
4 fail as a matter of law. No amount of discovery will reveal documents that will change the fact  
5 that Noteworld is a mere servicer and makes no claim to possession or interest in the Property.

6 Furthermore, Plaintiff makes the questionable assertion that "[s]ufficient discovery has  
7 not been conducted for Plaintiff to determine the actual entities that have a claim to possession  
8 or interest to the Tonopah Property." (See Opposition 5:9-10). As stated in the Motion to  
9 Dismiss, upon service of the Complaint, Noteworld contacted counsel for Bernstein and  
10 requested voluntary dismissal from the case because Noteworld "makes no claim to possession  
11 – in full or in part – to the properties at issue." (See Motion to Dismiss, Exhibit E). Despite  
12 this request, Noteworld was not dismissed from the instant lawsuit, and as a consequence, has  
13 had to retain counsel and incur fees and costs to defend this matter. Plaintiff's own admission  
14 that sufficient discovery had not been conducted for Plaintiff to determine the actual entities  
15 that have a claim to possession or interest to the Property proves that Plaintiff's claim for Quiet  
16 Title against Noteworld are without merit and were asserted in bad faith without due diligence.  
17 Plaintiff has simply failed to do his homework prior to filing the Complaint. As such,  
18 Noteworld should be awarded attorneys fees and costs for having to defend this matter and  
19 bring this motion.

### 20 **III. Opposition to Countermotion for Leave to File an Amended Complaint**

21 A. *While Leave To Amend Is To Be Freely Given, Plaintiff Should Not Be Allowed  
22 To Amend The Complaint Because The Freedom To Permit Amendment Is Not  
23 Absolute.*

24 Plaintiffs must not be permitted to amend their Complaint against Noteworld because  
Plaintiff has failed to address the major defects that exist in their case. Although Nevada's  
pleading laws are quite liberal, it does not constitute an open invitation to amend. While leave

1 to amend is to be freely given, the freedom is not absolute. The Nevada Supreme Court stated  
2 in Brown v. Capanna, "the requirement that the amending party acquire leave of the court  
3 suggests that there are instances in which leave should not be granted." 105 Nev. 665, 668,  
4 782 P.2d 1299, 1301 (1989). In Brown, the Court affirmed the trial court's refusal to permit  
5 plaintiffs to amend their negligence allegation when the Court had already awarded partial  
6 summary judgment against the plaintiffs on the negligence issue.

7 Similarly, Plaintiff continues to pursue the claim for Quiet Title Pursuant to NRS  
8 40.010 against Noteworld in the amended Complaint. As stated above, Noteworld makes no  
9 claim to title or possession of the Property at issue. Should this Court grant dismissal or  
10 summary judgment in favor of Noteworld, Plaintiff should not be allowed to relitigate the  
11 matter by way of amended pleadings.

12 B. *Plaintiff's While Leave To Amend Is To Be Freely Given, Plaintiff Should Not*  
13 *Be Allowed To Amend The Complaint Because The Freedom To Permit*  
*Amendment Is Not Absolute.*

14 A court should not allow amendment when the proposed amendment of the pleading  
15 does not state a legally recognizable claim. Accordingly, a judge may, in a property case, deny  
16 a motion for leave to amend. See Foman v. Davis, 371 U.S. 178, 182 (1962); Stephens v. S.  
17 Nevada Music Co., Inc., 89 Nev. 104, 507 P.2d 138 (1973); see also Edwards v. City of  
18 Goldsboro, 178 F.3d 231, 242 (4th Cir. 1999) (leave may be denied when amendment would be  
19 futile); Leffal v. Dalla Indep. School Dist., 28 F.3d 521, 524 (5th Cir. 1994) (valid reasons for  
20 denial are timeliness and futility); Roth v. Garcia Marquez, 942 F.2d 617, 628 (9th Cir. 1991)  
21 (four factors – bad faith, undue delay, prejudice, and futility – are commonly used to determine  
22 if court should grant leave); Moore v. Kayport Package Express, Inc., 885 F.2d 531, 538 (9th  
23 Cir. 1989) (denial of leave proper when amendment was subject to dismissal for failure to state  
24 a claim).

As the above authority demonstrates, a party should not be granted leave to amend a  
pleading where the sought after amendment is legally insufficient to state a cause of action. In

1 this case, Plaintiff's should not be allowed leave to amend because they have not presented any  
2 evidence to suggest they have a meritorious claim against Noteworld.

3 Plaintiff's amended Complaint makes unspecified claims against Noteworld and  
4 references whole sections of the U.S. code and whole section of Nevada Revised Statutes.  
5 Plaintiff's Second Cause of Action references 15 USC 1692e; this section of the U.S. Code  
6 contains **sixteen** separate and distinct possible violations a debt collector could make in the  
7 process of collecting a debt. (See attached Exhibit AA). Plaintiff's Third Cause of Action  
8 (erroneously labelled Second Cause of Action) references 15 USC 1692f; this provision of the  
9 U.S. Code contains **eight** separate and distinct possible violations a debt collector could make  
10 in the process of collecting a debt. (See attached Exhibit BB). Plaintiff's Fourth Cause of  
11 Action (erroneously labelled Third Cause of Action) references NRS 598.0915; this provision  
12 of the Nevada Revised Statutes defines "Deceptive trade practice" and contains **sixteen**  
13 separate and distinct possible actions a person/business would have to knowingly take to meet  
14 the statutory definition of deceptive trade practice. (See attached Exhibit CC). Thus, in  
15 Plaintiff's proposed amended Complaint, Plaintiff has accused Noteworld of a total of forty  
16 violations of the law.

17 Plaintiff simply cannot state a claim against Noteworld and is making a futile and  
18 desperate attempt to keep the case afloat. Plaintiff should not be allowed to amend the  
19 Complaint due to Plaintiff's blatant disregard for Nevada's pleading requirements and failure to  
20 state a cognizable claim upon which relief can be granted. As such, the Countermotion for  
21 leave to amend the Complaint should be denied in its entirety.

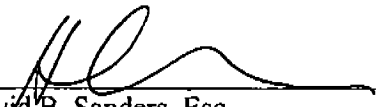
#### 22 **IV. Conclusion**

23 Based on the foregoing, Defendant Noteworld respectfully requests this Court to  
24 dismiss with prejudice Plaintiff's Complaint in its entirety, or alternatively, grant summary

1 judgment in favor of Defendant Noteworld on Plaintiff's claim. Defendant Noteworld also  
2 requests that leave to amend the Complaint be denied. It is further requested that Defendant be  
3 awarded attorneys' fees and costs for having to defend this case and to submit this motion.

4 DATED this 19 day of November, 2009.

5 THE COOPER CASTLE LAW FIRM, LLP

6   
7 David B. Sanders, Esq.  
8 Nevada State Bar No. 7895  
9 Huong X. Lam, Esq.  
10 Nevada State Bar No. 10916  
11 820 S. Valley View Boulevard  
12 Las Vegas, NV 89107  
13 (702) 435-4175 Telephone  
14 Attorneys for Defendant  
15 Noteworld, LLC  
16  
17  
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19  
20  
21  
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24

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of THE COOPER CASTLE LAW FIRM, LLP, and that on the 19 day of November, 2009, I served a true and correct copy of the DEFENDANT NOTEWORLD, LLC'S REPLY IN SUPPORT OF MOTION TO DISMISS OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT and OPPOSITION TO COUNTERMOTION FOR LEAVE TO FILE PLAINTIFF'S FIRST AMENDED COMPLAINT via First Class US Mail, postage prepaid to the parties listed below.

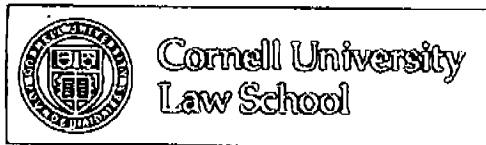
Malcolm P. LaVergne, Esq.  
The LaVergne Law Group  
320 East Charleston Blvd., Suite 203  
Las Vegas, NV 89104

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

  
An employee of  
THE COOPER CASTLE LAW FIRM, LLP

**EXHIBIT “AA”**





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## U.S. Code collection

TITLE 15 &gt; CHAPTER 41 &gt; SUBCHAPTER V &gt; § 1692e

### § 1692e. False or misleading representations

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

- (1) The false representation or implication that the debt collector is vouched for, bonded by, or affiliated with the United States or any State, including the use of any badge, uniform, or facsimile thereof.
- (2) The false representation of—
  - (A) the character, amount, or legal status of any debt; or
  - (B) any services rendered or compensation which may be lawfully received by any debt collector for the collection of a debt.
- (3) The false representation or implication that any individual is an attorney or that any communication is from an attorney.
- (4) The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action.
- (5) The threat to take any action that cannot legally be taken or that is not intended to be taken.
- (6) The false representation or implication that a sale, referral, or other transfer of any interest in a debt shall cause the consumer to—
  - (A) lose any claim or defense to payment of the debt; or
  - (B) become subject to any practice prohibited by this subchapter.
- (7) The false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer.
- (8) Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.
- (9) The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or

## US CODE: Title 15,1692e. False or misleading representations

Page 2 of 2

agency of the United States or any State, or which creates a false impression as to its source, authorization, or approval.

**(10)** The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

**(11)** The failure to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except that this paragraph shall not apply to a formal pleading made in connection with a legal action.

**(12)** The false representation or implication that accounts have been turned over to innocent purchasers for value.

**(13)** The false representation or implication that documents are legal process.

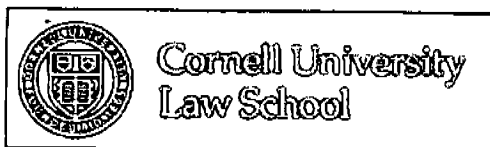
**(14)** The use of any business, company, or organization name other than the true name of the debt collector's business, company, or organization.

**(15)** The false representation or implication that documents are not legal process forms or do not require action by the consumer.

**(16)** The false representation or implication that a debt collector operates or is employed by a consumer reporting agency as defined by section 1681a (f) of this title.

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**EXHIBIT “BB”**



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## U.S. Code collection

TITLE 15 &gt; CHAPTER 41 &gt; SUBCHAPTER V &gt; § 1692f

### § 1692f. Unfair practices

A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

- (1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.
- (2) The acceptance by a debt collector from any person of a check or other payment instrument postdated by more than five days unless such person is notified in writing of the debt collector's intent to deposit such check or instrument not more than ten nor less than three business days prior to such deposit.
- (3) The solicitation by a debt collector of any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution.
- (4) Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on such check or instrument.
- (5) Causing charges to be made to any person for communications by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees.
- (6) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if—
  - (A) there is no present right to possession of the property claimed as collateral through an enforceable security interest;
  - (B) there is no present intention to take possession of the property; or
  - (C) the property is exempt by law from such dispossession or disablement.
- (7) Communicating with a consumer regarding a debt by post card.
- (8) Using any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt collection business.

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US CODE: Title 15,1692f. Unfair practices

Page 2 of 2

**EXHIBIT “CC”**

**NRS 598.0915** "Deceptive trade practice" defined. A person engages in a "deceptive trade practice" if, in the course of his business or occupation, he:

1. Knowingly passes off goods or services for sale or lease as those of another person.
2. Knowingly makes a false representation as to the source, sponsorship, approval or certification of goods or services for sale or lease.
3. Knowingly makes a false representation as to affiliation, connection, association with or certification by another person.
4. Uses deceptive representations or designations of geographic origin in connection with goods or services for sale or lease.
5. Knowingly makes a false representation as to the characteristics, ingredients, uses, benefits, alterations or quantities of goods or services for sale or lease or a false representation as to the sponsorship, approval, status, affiliation or connection of a person therewith.
6. Represents that goods for sale or lease are original or new if he knows or should know that they are deteriorated, altered, reconditioned, reclaimed, used or secondhand.
7. Represents that goods or services for sale or lease are of a particular standard, quality or grade, or that such goods are of a particular style or model, if he knows or should know that they are of another standard, quality, grade, style or model.
8. Disparages the goods, services or business of another person by false or misleading representation of fact.
9. Advertises goods or services with intent not to sell or lease them as advertised.
10. Advertises goods or services for sale or lease with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity.
11. Advertises goods or services as being available free of charge with intent to require payment of undisclosed costs as a condition of receiving the goods or services.
12. Advertises under the guise of obtaining sales personnel when the purpose is to first sell or lease goods or services to the sales personnel applicant.
13. Makes false or misleading statements of fact concerning the price of goods or services for sale or lease, or the reasons for, existence of or amounts of price reductions.
14. Fraudulently alters any contract, written estimate of repair, written statement of charges or other document in connection with the sale or lease of goods or services.
15. Knowingly makes any other false representation in a transaction.
16. Knowingly falsifies an application for credit relating to a retail installment transaction, as defined in NRS 97.115.

(Added to NRS by 1973, 1483; A 1983, 881; 1985, 2256; 1995, 1094; 1997, 1375; 1999, 3280; 2001, 489, 2149)

A-09-596386-C

**DISTRICT COURT  
CLARK COUNTY, NEVADA****Title to Property****COURT MINUTES****November 24, 2009**

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A-09-596386-C

Mark Bernstein, Plaintiff(s)

vs.

NoteWorld LLC; Salvador Rodriguez, Defendant(s)

---

**November 24, 2009****9:00 AM****All Pending Motions****HEARD BY:** Togliatti, Jennifer**COURTROOM:** RJC Courtroom 14A**COURT CLERK:** Alan Castle; Dawn Jackson**RECORDER:** Yvette Lester**PARTIES****PRESENT:**

Lam, Huong

Attorney

Lavergne, Malcolm P.

Attorney

**JOURNAL ENTRIES**

- Defendant Noteworld, LLC's Motion to Dismiss, or in the Alternative, Motion for Summary Judgment ... Plaintiff Mark Bernstein's Opposition to Defendant Noteworld, LLC's Motion To Dismiss and Countermotion for Leave To File an Amended Complaint

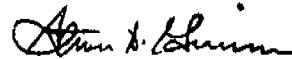
Arguments by counsel. Court stated it's Findings and ORDERED, motion to Dismiss Granted In Part. FURTHER, counter motion to amend GRANTED.



1 ORDR  
 David B. Sanders, Esq. (7895)  
 2 Huong X. Lam, Esq. (10916)  
 THE COOPER CASTLE LAW FIRM, LLP  
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 3 Las Vegas, Nevada 89107  
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 4 *Attorneys for Defendant*  
*Noteworld, LLC*

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JAN 20 3 50 PM '10

  
 CLERK OF THE COURT

DISTRICT COURT  
 CLARK COUNTY, NEVADA

MARK BERNSTEIN, an Individual )

Plaintiff, )

vs. )

Case No. A-09-596386-C )

Dept. No. IX )

9 NOTEWORLD, LLC, a Foreign Limited )  
 Liability Company; SALVADOR )  
 10 RODRIGUEZ, an Individual; DOES I - X, )  
 Inclusive; and ROE Corporations I - X, )  
 11 Inclusive, )  
 Defendants. )

**ORDER ON HEARING**  
**NOVEMBER 24, 2009**

14 This matter, having come before the Court on November 24, 2009, Defendant  
 15 NOTEWORLD, LLC, ("Noteworld"), having appeared by and through counsel Huong X. Lam,  
 16 Esq., of The Cooper Castle Law Firm, and Plaintiff MARK BERNSTEIN having appeared by  
 17 and through counsel Malcolm LaVergne, Esq., of The LaVergne Law Group, the Court having  
 18 considered the Motion, Opposition and Countermotion, Reply and Opposition, and arguments  
 19 of counsel under NRCP 56 and good cause appearing, sets forth the Findings of Fact,  
 20 Conclusions of Law and Order as follows:

## FINDINGS OF FACT:

21 This matter deals with real property located in Las Vegas, Nevada, commonly known as  
 22 2517 E. Tonopah Ave., N. Las Vegas, NV 89030, APN 139-24-410-005 (hereinafter the  
 23 "Property");  
 24

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1. The Property was purchased on or about July 1, 1980 by Plaintiff MARK BERNSTEIN ("Plaintiff" or "Bernstein") and his then wife, Karen Bernstein from Sycamore Properties;
2. The Note on the loan was secured by first and second Deeds of Trusts, dated July 1, 1980, executed by Bernstein and his then wife, Karen Bernstein. The first and second Deeds of Trusts were recorded on July 9, 1980 as Instrument No. 1209825 in Book 1250, and Instrument No. 1209826 in Book 1250 in the Official Records in the County Recorder's Office of Clark County, Nevada;
3. On or about June 13, 1994, the first and second Deeds of Trusts were assigned to Salvador Rodriguez. The Assignments of the first and second Deeds of Trusts were recorded on June 22, 1994 at Instrument No. 199406220001554 and Instrument No. 199406220001555;
4. Noteworld has no claim to title or possession in the Property. No amount of discovery will reveal documents that will change the fact that Noteworld makes no claim to possession or interest in the Property.

#### CONCLUSIONS OF LAW:

1. Summary judgment is appropriate because the pleadings and evidence demonstrate no genuine material issue remains to be decided in regards to Plaintiff's claim for Quiet Title against Noteworld;
2. Plaintiff's claim against Noteworld for Quiet Title fails as a matter of law;
3. Plaintiff may submit a proposed Second Amended Complaint.

NOW THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED THAT:

1. The foregoing recitals are hereby incorporated herein;
2. Summary Judgment is appropriate in this matter because the pleadings and evidence demonstrate that no genuine material issue of facts remains to be

1 decided as to Plaintiff's First Cause of Action for Quiet Title Against  
2 Noteworld;

3 3. Plaintiff may submit a proposed Second Amended Complaint within 20 days of  
4 entry of this order.

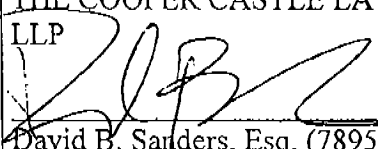
5 DATED this 19th day of January, 2010.

6  
7 **JENNIFER P. TOGLIATTI**

8 DISTRICT COURT JUDGE

9 Respectfully Submitted By:

10 THE COOPER CASTLE LAW FIRM,  
11 LLP

12   
13 David B. Sanders, Esq. (7895)  
14 Huong X. Lam, Esq. (10916)  
15 820 S. Valley View Boulevard  
16 Las Vegas, NV 89107  
17 (702) 435-4175 Telephone  
18 Attorneys for Defendant  
19 Noteworld, LLC  
20  
21  
22  
23  
24

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*John H. Sanders*  
CLERK OF THE COURT

1 NEOJ  
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3 Las Vegas, Nevada 89107  
(702) 435-4175 Telephone  
4 Attorneys for Defendant  
Noteworld, LLC

DISTRICT COURT  
CLARK COUNTY, NEVADA

MARK BERNSTEIN, an Individual )

Plaintiff, )

vs. )

Case No. A-09-596386-C

Dept. No. IX

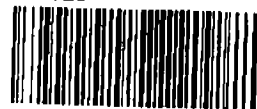
9 NOTEWORLD, LLC, a Foreign Limited  
Liability Company; SALVADOR

10 RODRIGUEZ, an Individual; DOES I - X,  
Inclusive; and ROE Corporations I - X,  
11 Inclusive,

Defendants. )

**NOTICE OF ENTRY OF ORDER**

A - 09 - 596386 - C  
647728



TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

14 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the ORDER  
15 ON HEARING NOVEMBER 24, 2009 was entered in the above-referenced matter on the 20<sup>th</sup>  
16 day of January, 2010, a copy of which is attached hereto.

DATED this 22 day of January, 2010.

THE COOPER CASTLE LAW FIRM, LLP

*Hand Made #11310*

David B. Sanders, Esq.  
Nevada State Bar No. 7895  
Huong X. Lam, Esq.  
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Noteworld, LLC

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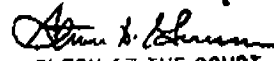
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 Attorneys for Defendant  
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DISTRICT COURT  
 CLARK COUNTY, NEVADA

MARK BERNSTEIN, an Individual )

Plaintiff, )

vs. )

 9 NOTEWORLD, LLC, a Foreign Limited )  
 Liability Company; SALVADOR )

 10 RODRIGUEZ, an Individual; DOES I - X, )  
 11 Inclusive; and ROE Corporations I - X, )  
 Inclusive, )

Defendants. )

Case No. A-09-596386-C

Dept. No. IX

**ORDER ON HEARING**  
**NOVEMBER 24, 2009**

14 This matter, having come before the Court on November 24, 2009, Defendant  
 15 NOTEWORLD, LLC, ("Noteworld"), having appeared by and through counsel Huang X. Lam,  
 16 Esq., of The Cooper Castle Law Firm, and Plaintiff MARK BERNSTEIN having appeared by  
 17 and through counsel Malcolm LaVergne, Esq., of The LaVergne Law Group, the Court having  
 18 considered the Motion, Opposition and Countermotion, Reply and Opposition, and arguments  
 19 of counsel under NRCP 56 and good cause appearing, sets forth the Findings of Fact,  
 20 Conclusions of Law and Order as follows:

## FINDINGS OF FACT:

21 This matter deals with real property located in Las Vegas, Nevada, commonly known as  
 22 2517 E. Tonopah Ave., N. Las Vegas, NV 89030, APN 139-24-410-005 (hereinafter the  
 23 "Property");  
 24

THE COOPER CASTLE LAW FIRM, LLP  
 820 South Valley View Blvd. Las Vegas, Nevada 89107  
 Phone (702) 435-4175 ■ Fax (702) 877-7424

THE COOPER CASTLE LAW FIRM, LLP  
820 South Valley View Blvd. Las Vegas, Nevada 89107  
Phone (702) 435-4175 ■ Fax (702) 877-7424

1. The Property was purchased on or about July 1, 1980 by Plaintiff MARK BERNSTEIN ("Plaintiff" or "Bernstein") and his then wife, Karen Bernstein from Sycamore Properties;
2. The Note on the loan was secured by first and second Deeds of Trusts, dated July 1, 1980, executed by Bernstein and his then wife, Karen Bernstein. The first and second Deeds of Trusts were recorded on July 9, 1980 as Instrument No. 1209825 in Book 1250, and Instrument No. 1209826 in Book 1250 in the Official Records in the County Recorder's Office of Clark County, Nevada;
3. On or about June 13, 1994, the first and second Deeds of Trusts were assigned to Salvador Rodriguez. The Assignments of the first and second Deeds of Trusts were recorded on June 22, 1994 at Instrument No. 199406220001554 and Instrument No. 199406220001555;
4. Noteworld has no claim to title or possession in the Property. No amount of discovery will reveal documents that will change the fact that Noteworld makes no claim to possession or interest in the Property.

#### CONCLUSIONS OF LAW:

1. Summary judgment is appropriate because the pleadings and evidence demonstrate no genuine material issue remains to be decided in regards to Plaintiff's claim for Quiet Title against Noteworld;
2. Plaintiff's claim against Noteworld for Quiet Title fails as a matter of law;
3. Plaintiff may submit a proposed Second Amended Complaint.

#### NOW THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED THAT:

1. The foregoing recitals are hereby incorporated herein;
2. Summary Judgment is appropriate in this matter because the pleadings and evidence demonstrate that no genuine material issue of facts remains to be

1 decided as to Plaintiff's First Cause of Action for Quiet Title Against

2 Noteworld;

3 3. Plaintiff may submit a proposed Second Amended Complaint within 20 days of  
4 entry of this order.

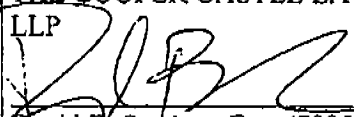
5 DATED this 8th day of January, 2010.

6  
7 JENNIFER P. TOGLIATTI

8 DISTRICT COURT JUDGE

9 Respectfully Submitted By:

10 THE COOPER CASTLE LAW FIRM,  
11 LLP

12   
13 David B. Sanders, Esq. (7895)

14 Huong X. Lam, Esq. (10916)

15 820 S. Valley View Boulevard

16 Las Vegas, NV 89107

17 (702) 435-4175 Telephone

18 Attorneys for Defendant

19 Noteworld, LLC

20  
21  
22  
23  
24  
THE COOPER CASTLE LAW FIRM, LLP  
820 South Valley View Blvd. Las Vegas, Nevada 89107  
Phone (702) 435-4175 ■ Fax (702) 877-7424



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LAVERGNE LAW GROUP

001/001

PAGE 01/01

**The LAVergne Law Group**

Attorneys and Counselors at Law

320 East Charleston Boulevard, Suite 203

Las Vegas, Nevada 89104

Telephone: (702)448-7981 Facsimile: (702)966-3117

MALCOLM P. LAVERGNE, ESQ.

Licensed in New York, Texas and Nevada.

January 21, 2010

*Via facsimile (702) 384-4789*

Department 9  
Eighth Judicial District  
Regional Justice Court  
200 Lewis Avenue  
Las Vegas, Nevada 89155

Re: Mark Berustein v. Noteworld, LLC et. al  
Case No.: A 596386

Dear Department 9:

We are in receipt of Ms. Lam's letter dated January 21, 2010. This correspondence is to inform you that we did not receive any correspondence from Ms. Lam on December 30, 2009. Further, the changes that were incorporated into the Order were incomplete. Please forward said Order to our office for final review and signature.

Thank you for your attention to this matter.

Sincerely,



Malcolm P. LAVergne, Esq.

MPL/hc

Cc: Huong X. Lam, Esq. -- Via facsimile (702) 877-7424



THE  
**COOPER CASTLE**  
LAW FIRM, LLP  
A MULTIJURISDICTIONAL LAW FIRM

January 21, 2010

Via Hand Delivery

Department 9  
Eighth Judicial District Court  
Regional Justice Center  
200 Lewis Ave.  
Las Vegas, NV 89155

Re: Mark Bernstein vs. Noteworld, LLC et al.  
Case No.: A596386


Dear Department 9,

Please accept and incorporate this letter into the Order on Hearing November 24, 2009 that was dropped off at your chambers on January 8, 2010.

At the aforementioned hearing, it was ordered that the opposing counsel, Malcolm LaVergne, must approve the proposed order as to form and content. A proposed order was drafted and sent to Mr. LaVergne on November 24, 2009. He responded with suggested changes on December 4, 2009. We incorporated the changes and sent the proposed order back to Mr. LaVergne for approval on December 8, 2009. Receiving no response, we updated the proposed order and sent it to Mr. LaVergne on December 30, 2009 with the request that he respond no later than January 6, 2010. We have yet to receive a response. With that said, please consider granting the proposed Order on Hearing November 24, 2009.

Thank you for your kind consideration. Please do not hesitate to contact me should you have any questions at (702) 435-4175, ext. 4104

Sincerely,

  
Huong X. Lam, Esq.  
Licensed in Nevada

Cc: Malcolm LaVergne

LAS VEGAS • PHOENIX • DENVER • SALT LAKE CITY • CASPER • ALBUQUERQUE • PANAMA

*In Affiliation with Castle, Meinhold & Stawiariski*

820 South Valley View Blvd., Las Vegas, Nevada 89107  
Telephone (702) 435-4175 • Facsimile (702) 877-7424

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CLERK OF THE COURT

**MATF**  
David B. Sanders, Esq.  
Nevada State Bar No. 7895  
Huong X. Lam, Esq.  
Nevada State Bar No. 10916  
**THE COOPER CASTLE LAW FIRM, LLP**  
820 S. Valley View Blvd.  
Las Vegas, Nevada 89107  
(702) 435-4175 Telephone  
*Attorneys for Defendant*  
*Noteworld, LLC*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

MARK BERNSTEIN, an Individual	)	
	)	
Plaintiff,	)	Case No. A-09-596386-C
vs.	)	
	)	Dept. No. IX
NOTEWORLD, LLC, a Foreign Limited	)	
Liability Company; SALVADOR	)	
RODRIGUEZ, an Individual; DOES I – X,	)	
Inclusive; and ROE Corporations I – X,	)	
Inclusive,	)	
Defendants.	)	
	)	
	)	

**MOTION FOR ATTORNEY'S FEES AND COSTS**

COMES NOW Defendants, NOTEWORLD, LLC (hereinafter "Noteworld") by and through its counsel of record, THE COOPER CASTLE LAW FIRM, LLP, and hereby moves this Court pursuant to NRS 18.010(2)(b) for an award of attorney's fees and costs.

This Motion is made and based upon the attached Memorandum of Points and Authorities, the pleadings and papers on file herein, and any argument of counsel the court may consider at the hearing of this Motion.

///

///

THE COOPER CASTLE LAW FIRM, LLP  
820 South Valley View Blvd. Las Vegas, Nevada 89107  
Phone (702) 435-4175 o Fax (702) 877-7424

**NOTICE OF MOTION**

TO: ALL PARTIES OF INTEREST

PLEASE TAKE NOTICE that on the 18 day of March, 2010, at the hour of chambers m, in Department 9, or as soon thereafter as counsel may be heard, the undersigned will bring the foregoing Motion for hearing before the above-referenced Court.

Dated this 9<sup>th</sup> day of February, 2010.

THE COOPER CASTLE LAW FIRM, LLP

/s/ Huong X. Lam, Esq.

David B. Sanders, Esq.

Nevada State Bar No. 7895

Huong X. Lam, Esq.

Nevada State Bar No. 10916

820 S. Valley View Boulevard

Las Vegas, NV 89107

(702) 435-4175 Telephone

Attorneys for Defendant

Noteworld, LLC

**POINTS AND AUTHORITIES**

**A. Brief Summary**

This matter deals with real property located in Las Vegas, Nevada, commonly known as 2517 E. Tonopah Ave., N. Las Vegas, NV 89030, APN 139-24-410-005 (hereinafter the "Property"). The Property was purchased on or about July 1, 1980 by Plaintiff MARK BERNSTEIN ("Plaintiff" or "Bernstein") and his then wife, Karen Bernstein from Sycamore Properties. (See Exhibit A). The Note on the loan was secured by first and second Deeds of Trusts, dated July 1, 1980, executed by Bernstein and his then wife, Karen Bernstein. (See Exhibit B). The first and second Deeds of Trusts were recorded on July 9, 1980 as Instrument

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820 South Valley View Blvd. Las Vegas, Nevada 89107  
Phone (702) 435-4175 o Fax (702) 877-7424

1 No. 1209825 in Book 1250, and Instrument No. 1209826 in Book 1250 in the Official Records  
2 in the County Recorder's Office of Clark County, Nevada. (See Exhibit C).

3 On or about June 13, 1994, the first and second Deeds of Trusts were assigned to  
4 Salvador Rodriguez. The Assignments of the first and second Deeds of Trusts were recorded  
5 on June 22, 1994 at Instrument No. 199406220001554 and Instrument No. 199406220001555.  
6 (See Exhibit D). On or about July 30, 2009, Bernstein filed the instant lawsuit for Quiet Title  
7 pursuant to NRS 40.010. Upon service of the Complaint, Noteworld contacted counsel for  
8 Bernstein and requested voluntary dismissal from the case because Noteworld is the servicer of  
9 the loan and "makes no claim to possession – in full or in part – to the properties at issue."  
10 (See Exhibit E). Despite this request, Noteworld was not dismissed from this case and as a  
11 consequence, has had to retain counsel and incur fees and costs to defend this matter.

12 Upon Noteworld's Motion to Dismiss, a hearing was held on November 24, 2009, and  
13 this Court held that summary judgment is appropriate in this matter because the pleadings and  
14 evidence demonstrate that no genuine material issue of facts remains to be decided as to  
15 Plaintiff's First Cause of Action for Quiet Title Against Noteworld. This Court also granted  
16 Plaintiff's Countermotion for Leave to File an Amended Complaint. On January 20, 2010, the  
17 Order on Hearing held on November 24, 2009 was entered whereby Plaintiff Bernstein was  
18 permitted 20 day within entry of the Order to submit his Amended Complaint. Plaintiff has not  
19 done so.

## 20 **B. Legal Standard**

21 NRS 18.010(2)(b) permits an award of attorney's fees when a claim "was brought  
22 without reasonable grounds to harass the prevailing party." See *United Ins. Co. of Am. v.*  
23 *Chapman Indus.*, 120 Nev. 745, 748, 100 P.3d 664 (2004). A frivolous claim is one that is  
24 baseless, *i.e.*, not well grounded in fact and warranted by existing law or a good faith argument

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 820 South Valley View Blvd. Las Vegas, Nevada 89107  
 Phone (702) 435-4175 o Fax (702) 877-7424

1 for the extension, modification, or reversal of existing law, and brought by an attorney without  
 2 reasonable and competent inquiry. *Simonian v. Univ. & Cmty. Coll. Sys.*, 122 Nev. 187, 128  
 3 P.3d 1057, 1063-65 (2006). A claim is groundless if it is fraudulent, especially if it is brought  
 4 in bad faith or if the allegations of the complaint are not supported by any credible evidence at  
 5 trial. *Allianz Ins. Co. v. Gagnon*, 109 nev. 990, 995-96, 860 P.2d 720 (1993). To support an  
 6 award of attorneys fees on such grounds, "there must be evidence in the record supporting the  
 7 proposition that the complaint was brought without reasonable grounds or to harass the other  
 8 party." *Kahn v. Morse & Mowbray*, 121 Nev. 464, 479, 117 P.3d 227, 238 (2005).

9 Additionally, NRS 18.010 provides that courts are to liberally construe NRS  
 10 18.010(2)(b) in favor of awarding attorney's fees in all situations. The legislature expressed an  
 11 intent that the court award attorney's fees and impose sanctions under NRCP 11 in all  
 12 appropriate situations to punish for and deter frivolous or vexatious claims and defenses  
 13 because such claims and defenses overburden limited judicial resources, hinder the timely  
 14 resolution of meritorious claims and increase the costs of engaging in business and providing  
 15 professional services to the public. *See also Trs. Of Plumbers & Pipefitters Union Local 525*  
 16 *Health & Welfare Trust Plan v. Developers Surety & Indem. Co.*, 120 Nev. 56, 84 P.3d 59  
 17 (2004) (suggesting the portion of the 2003 amendment stating that the court "shall liberally  
 18 construe the provisions of this paragraph in favor of awarding attorney's fees in all appropriate  
 19 situations" also applies to NRS 18.010(2)(a)). Importantly, the bringing of one or more  
 20 colorable claims does not excuse the bringing of other groundless claims. *See Barozzi v.*  
 21 *Benna*, 112 Nev. 635, 918 P.2d 301 (1996); *Bergman v. Boyce*, 109 Nev. 670, 856 P.2d 560  
 22 (1993).

23 ///

24 ///

1           **C.      An Award of Attorney's Fees and Costs is Appropriate in this Situation.**

2           In the instant matter, upon service of the Complaint and prior to retaining counsel,  
3           Noteworld contacted counsel for Bernstein and requested voluntary dismissal from the case  
4           because Noteworld is the servicer of the loan and "makes no claim to possession – in full or in  
5           part – to the properties at issue." (See **Exhibit E**). Despite this request, Noteworld was not  
6           dismissed from this case and as a consequence, has had to retain counsel and incur fees and  
7           costs to defend this matter.

8           Bernstein's Complaint for Quiet Title is frivolous because it is not grounded in fact and  
9           warranted by existing law. Noteworld was merely the servicer of the subject Note and Deed of  
10          Trust and stated so in their letter to Bernstein upon service of the Complaint. An award of  
11          attorney's fees is appropriate in this situation because Bernstein's Quiet Title action against  
12          Noteworld was frivolous and vexatious, overburdened limited judicial resources hindered the  
13          timely resolution of meritorious claims and increased Noteworld's costs of engaging in  
14          business and providing professional services to the public.

15          Bernstein's refusal to voluntarily dismiss Noteworld from the matter forced Noteworld  
16          to retain counsel in order to prepare and draft a Motion to Dismiss, a Reply in Support of the  
17          Motion to Dismiss and to appear at the hearing on the Motion. An award of attorney's fees and  
18          costs is appropriate in this situation based on the fact that Bernstein refused to voluntarily  
19          dismiss Noteworld from the Quiet Title action when Noteworld expressly stated that they make  
20          no claim, in full or in part, to the Property.

21          Noteworld has incurred \$4,430.00 thus far in attorney's fees and costs in defending this  
22          matter. It is anticipated that Noteworld will incur an additional \$750.00 for having to prepare  
23          this Motion for Attorney's Fees and Costs and to attend the hearing. (Please see attached  
24          Affidavit at **Exhibit F**).

Based on the foregoing, Defendant Noteworld respectfully requests an award of attorney's fees and costs for having to defend this case and to submit this motion.

DATED this 9<sup>th</sup> day of February, 2010.

/s/ Huong X. Lam, Esq.

David B. Sanders, Esq.

Nevada State Bar No. 7895

Huong X. Lam, Esq.

Nevada State Bar No. 10916

820 S. Valley View Boulevard

Las Vegas, NV 89107

(702) 435-4175 Telephone

*Attorneys for Defendant*

*Noteworld, LLC*



Exhibit “A”

Exhibit “A”

1250

1209824

## GRANT, BARGAIN, SALE DEED

THIS INSTRUMENT WITNESSETH: That SYCAMORE PROPERTIES, a Partnership

FOR A VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, do hereby Grant, Bargain,

Sell and Convey to MARK G. BERNSTEIN AND KARIN BERNSTEIN, husband and wife as joint tenants.

all that real property situated in the County of CLARK

State of Nevada, bounded and described as follows:

Lot Five (5) in Block One (1) of COLLEGE PARK NO. 3, as shown by map thereof on file in Book 4 of Plats, page 49, in the Office of the County Recorder of Clark County, Nevada.

- SUBJECT TO:
1. Taxes for the fiscal year 1979-1980.
  2. Reservations, restrictions and conditions, if any; rights of way and easements, either of record or actually existing on said premises.
  3. Deed of Trust of record.

Together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

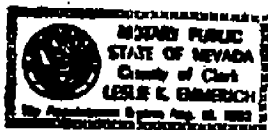
Witness his hand this 11th day of June, 1980.

STATE OF NEVADA }  
CLARK }  
COUNTY OF } SS.

On 7/2/80  
personally appeared before me, a Notary Public,  
LOUIE WARNARS

who acknowledged that he executed the above instrument.

Signature: *Lois Warner*  
(Notary Public)  
(Notarial Seal)



SYCAMORE PROPERTIES, a Partnership  
BY: *Mark & Karin Bernstein*  
LOUIE WARNARS

ESCROW NO. 8006-60LR  
ORDER NO.  
WHEN RECORDED MAIL TO: MARK & KARIN BERNSTEIN  
c/o 3300 S. Jones, Suite 101, Las Vegas, NV 89102

CLARK COUNTY, NEVADA  
JOAN L. SAFF, CLERK  
RECORDED & INDEXED  
LAND TITLE OF NEVADA  
Jul 9 9 55 AM '80  
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OFFICIAL RECORDS  
BOOK INSTRUMENT

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Exhibit “B”

Exhibit “B”

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or order, at

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**THE COPY SHOP-51**

DO NOT DESTROY THIS NOTE WHEN PAID, with Due Date Trust reserving  
the right to be used and to transfer for contribution to a beneficiary, as will be made.

04-118

3 2175  
10-11-11

# Note Secured by Deed of Trust

STRAIGHT NOTE

\$4,609.00

Las Vegas

Nevada

July 1

1980

ALL DUE AND PAYABLE ON OR BEFORE SEPTEMBER 1, 1983

value received, undersigned promise to pay to SYCAMORE PROPERTIES, A Partnership

LAS VEGAS, NEVADA OR AS DIRECTED

FOUR THOUSAND SIX HUNDRED AND NO/100

with interest from July 2, 1980

until paid, at the rate of TEN

10%

per cent per

annum, payable monthly beginning September 1, 1980 and continuing until September 1, 1983. Should interest not be paid by the first day of any month, the holder of this note shall have the right to demand immediate payment of the principal and interest then due. This note is secured by the whole sum of principal and interest then due at the option of the holder hereof. Principal and interest payable in lawful money of the United States. If action be instituted in any Court to enforce any obligation secured by such Deed of Trust, undersigned promise to pay such sum as the Court may fix as attorney's fees in said action. This note is secured by a DEED OF TRUST, of even date herewith, to HERITAGE TITLE AND ESCROW, Trustee. In the event any payment is made, then, 15 days later, a late charge penalty of \$10.00 shall be paid. In the event the Signor hereof should sell or convey his interest in and to the real property given as security for this note, then in that event payment of this note shall be accelerated and the entire balance of principal and interest shall become immediately due and payable at the option of the Beneficiary.

KARIN BERNSTEIN

KARIN BERNSTEIN

THE COPY SHOPS-81

Exhibit “C”

Exhibit “C”

BOOK 1250

1209825

THIS DEED OF TRUST, made this 1st day of July, 1980  
between MARK G. BERNSTEIN AND KARIN BERNSTEIN, husband and wife

herein called GRANTOR or TRUSTOR,

Attest the true address is \_\_\_\_\_

**HERITAGE TITLE AND ESCROW, a NEVADA corporation,** herein called Trustee, and  
**SYCAMORE PROPERTIES, a Partnership**

herein called BENEFICIARY.

WITNESSETH THAT WHEREAS Trustor has borrowed and received from Beneficiary in lawful money of the United States the sum of FOUR THOUSAND SIX HUNDRED AND NO/100 (\$4,600.00) DOLLARS, and has agreed to repay the same with interest to Beneficiary in lawful money of the United States according to the terms of a promissory note of even date herewith attached and delivered thereto by Trustor;

NOW THEREFORE for the purpose of securing such agreement of the Trustor herein contained including payment of the said promissory note and of any money with interest thereon that may be advanced by or otherwise become due to Trustee or Beneficiary under the provisions hereof and for the purpose of securing payment of such additional sums as may hereafter be advanced for the account of Trustor by Beneficiary with interest thereon, Trustor irrevocably GRANTS AND TRANSFERS TO TRUSTEE, IN TRUST WITH POWER OF SALE, all that property in CLARK County, Nevada described as:

Lot Five (5) in Block One (1) of COLLEGE PARK NO. 3, as shown by map thereof on file in Book 4 of Plats, page 49, in the Office of the County Recorder of Clark County, Nevada.

In the event the Grantor herein named shall sell or convey his interest in and to the real property herein described, then in that event payment of the Note secured hereby shall be accelerated and the entire balance of principal and interest shall become immediately due and payable at the option of the Beneficiary.

TOGETHER WITH all appurtenances in which Trustor has any interest, including water rights benefiting said realty whether represented by shares of a company or otherwise, and

TRUSTOR ALSO ASSIGNS to Beneficiary all rents, issues and profits of said realty, reserving the right to collect and use the same except during continuance of some default hereunder and during continuance of such default, authorizing Beneficiary to collect and enforce the same by any lawful means in the name of any party hereto

TO HAVE AND TO HOLD said property upon and subject to the trusts and agreements herein set forth and incorporated herein by reference. The following covenants, Max 1, 2, 3, 4, 5, 6, 7, 8 and 9 of MRS 107.030 are hereby adopted and made a part of this deed of trust, EXCEPT ONLY that the covenants agreed upon by the parties to this instrument with respect to covenants Max 2, 4 and 7 incorporated by reference of such trusts and agreements is respectively as follows: Covenant No. 2, 8; \_\_\_\_\_%; Covenant No. 7, \_\_\_\_\_%. Such provisions so incorporated shall have the same force and effect as though specifically set forth and incorporated verbatim in this deed of trust.

THE UNDERSIGNED TRUSTOR REQUESTS that a copy of any notice of default and any notice of sale hereunder be mailed to him at the address hereinafter set forth.

IN WITNESS WHEREOF, Grantor has executed this instrument.

Signature of Trustor

MARK G. BERNSTEIN

KARIN BERNSTEIN

STATE OF NEVADA  
COUNTY OF CLARK

On this 1st day of July, 1980

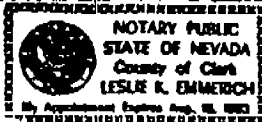
personally appeared before me, a Notary Public in and for said County, MARK G. BERNSTEIN & KARIN BERNSTEIN

known to me to be the persons described by and who executed the foregoing instrument, who acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes herein mentioned.

WITNESS my hand and official seal.  
Leslie R. Chmurech  
Notary Public in and for said County and State.

(If executed by a corporation, the corporation form of acknowledgment must be used.)

(NOTARIAL SEAL)



Order No. 8006-60LR When Recorded, Mail to

CLARK COUNTY, NEVADA  
JOAN L. SAFFORD, CLERK  
RECORDED AT \_\_\_\_\_

LAND TITLE OF NEVADA  
JUL 9 9 55 AM '80

FEE 3W DEPUTY SL  
OFFICIAL RECORDS  
BOOK INSTRUMENT

1250

1209825

BOOK 1250

1209826

THIS DEED OF TRUST, made this 1st day of July, 19 80  
between MARK G. BERNSTEIN AND KARIN BERNSTEIN, husband and wife

herein called GRANTOR or TRUSTOR,  
whose mailing address is \_\_\_\_\_

HERITAGE TITLE AND ESCROW, a NEVADA corporation, herein called Trustee, and  
SYCAMORE PROPERTIES, a Partnership

herein called BENEFICIARY,  
WITNESSETH THAT WHEREAS Trustor has borrowed and received from Beneficiary in lawful money of the United States the sum of  
NINE THOUSAND ONE HUNDRED FORTY AND 98/100 (\$9,140.98) DOLLARS,  
and has agreed to repay the same with interest, to Beneficiary in lawful money of the United States according to the terms of a promissory note of even  
date herewith executed and delivered hereto by Trustor.

NOW TRUSTEES for the purpose of securing such repayment of the Trustor herein contained including payment of the said promissory note  
and of any moneys with interest thereon that may be advanced by or otherwise become due to Trustor or Beneficiary under the provisions hereof and for  
the purpose of securing payment of such additional sums as may hereafter be advanced for the account of Trustor by Beneficiary with interest thereon,  
TRUSTOR irrevocably GRANTS AND TRANSFERS TO TRUSTEE, IN TRUST WITH POWER OF SALE, of that property in CLARK County,  
Nevada described as:

Lot Five (5) in Block One (1) of COLLEGE PARK NO. 3, as shown by map thereof on file in  
Book 4 of Plans, page 49, in the Office of the County Recorder of Clark County, Nevada.

In the event the Grantor herein named shall sell or convey his interest in and to the real  
property herein described, then in that event payment of the Note secured hereby shall be  
~~accelerated and the entire balance of principal and interest shall become immediately due~~  
and payable at the option of the Beneficiary.

TOGETHER WITH all appurtenances, in which Trustor has any interest, including water rights, benefiting said realty whether represented by shares of a  
company or otherwise, and

TRUSTEE ALSO ASSIGNS to Beneficiary all rents, issues and profits of said realty, reserving the right to collect and use the same except during continuance  
of some default hereunder and during continuance of such default, authorizing Beneficiary to collect and enforce the same by any lawful means in the name  
of any party hereto.

TO HAVE AND TO HOLD and property upon and subject to the trusts and agreements hereof set forth and incorporated herein by reference, the following  
covenants, Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 9 of MRS 157.030 are hereby adopted and made a part of this deed of trust, EXCEPT ONLY that the covenants agreed upon  
by the parties to this instrument with respect to covenants Nos. 2, 4 and 7 incorporated by reference of such trusts and agreements is respectively as follows:  
Covenant No. 2, 8 \_\_\_\_\_; Covenant No. 6, \_\_\_\_\_; Covenant No. 7, \_\_\_\_\_. Such provisions as incorporated shall  
have the same force and effect as though specifically set forth and incorporated verbatim in this deed of trust.

THE UNDERSIGNED TRUSTOR REQUESTS that a copy of any notice of default and any notice of sale hereunder be mailed to him at the address hereinbefore  
set forth.

IN WITNESS WHEREOF, Grantor has executed this instrument.

Signature of Trustor:

Mark G. Bernstein  
MARK G. BERNSTEIN

Karin Bernstein  
KARIN BERNSTEIN

STATE OF NEVADA,  
COUNTY OF CLARK

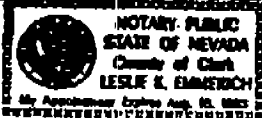
On this 1st day of July, 1980

personally appeared before me, a Notary Public in and for said  
County, MARK G. BERNSTEIN AND KARIN BERNSTEIN

known to me to be the person described in and who executed the foregoing  
instrument, who acknowledged to me that \_\_\_\_\_ executed the same freely  
and voluntarily and for the uses and purposes herein mentioned.

WITNESS my hand and official seal.  
Leslie K. Emmerich  
Notary Public in and for said County and State.

(If executed by a  
Notary Public,  
this seal must  
be used.)



Order No. \_\_\_\_\_ When Recorded, Mail to \_\_\_\_\_

LAND TITLE  
923 503 110  
L. C. NEV.

CLARK COUNTY NEVADA  
JOAN L. SMITH, RECORDER  
RECORDED 9/11/80

LAND TITLE OF NEVADA  
JUL 9 9 55 AM '80

FEE 3rd DEPUTY  
OFFICIAL RECORDS  
BOOK INSTRUMENT

1250 1209826



Exhibit “D”

Exhibit “D”

RECORDING REQUESTED BY

9 4 0 6 2 2 0 1 5 5 4

AND WHEN RECORDED MAIL TO

NAME **HILL & SANDFORD**  
ADDRESS **800 PRESIDIO AVE**  
CITY & STATE **SANTA BARBARA CA 93101**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

## Assignment of Deed of Trust

L-42

FOR VALUE RECEIVED, the undersigned hereby grants, assigns and transfers to Salvador Rodriguez,  
a married man  
all beneficial interest under that certain Deed of Trust dated July 1, 1980  
executed by Mark G. Bernstein and Karin Bernstein

to Heritage Title and Escrow, Trustee,  
and recorded as Instrument No. 1209825 on July 9, 1980 in book 1250  
page of Official Records in the County Recorder's office of Clark County, Nevada County,  
describing land therein as:

Lot Five (5) in Block One (1) of COLLEGE PARK NO. 3, as shown by map thereof on  
file in Book 4 of Plats, page 49, in the Office of the County Recorder of Clark County,  
Nevada.

### RECORDER'S MEMO POSSIBLE POOR RECORD DUE TO QUALITY OF ORIGINAL DOCUMENT

TOGETHER with the note or notes therein described or referred to, the money due and to become due thereon with  
interest, and all rights accrued or to accrue under said Deed of Trust.

Dated June 13, 1994

STATE OF CALIFORNIA }  
COUNTY OF } SS.

On this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, before me,  
the undersigned, a Notary Public in and for said County and State,  
personally appeared \_\_\_\_\_

\_\_\_\_\_, personally known to me or  
proved to me on the basis of satisfactory evidence to be the person(s)  
whose name(s) subscribed to the within instrument and acknow-  
ledged that \_\_\_\_\_ executed the same.

CASA CARRILLO PROPERTIES, a Partnership

By: Salvador Rodriguez  
Salvador Rodriguez, General Partner

Witness: Marcia Gehring  
MARCIA GEHRING

FOR NOTARY SEAL OR STAMP

Title Order No. \_\_\_\_\_ Escrow No. \_\_\_\_\_

**SUBSCRIBING-WITNESS CERTIFICATE ("WITNESS JURAT")**

State of California

County of Santa Barbara

On this the 16th day of June 19 94, before me, the undersigned

Notary Public, personally appeared Marcia Gehringar

☒ personally known to me ~~OR~~ ☐ proved to me on the oath/affirmation of who is personally known to me,

NAME OF PERSON (CREDIBLE WITNESS) WHO IDENTIFIES SUBSCRIBING WITNESS

to be the person whose name is subscribed to the within instrument as a witness thereto, who, being by me duly sworn, deposes and says that she (he/she) was present and saw

Salvador Rodriguez

NAME OF ABSENT PRINCIPAL SIGNER

the same person described in and whose name is subscribed to the within and annexed instrument as a party thereto, execute the same, and that said affiant subscribed her (his/her) name to the within instrument as a witness at the request of

Salvador Rodriguez

HAND OF PRINCIPAL SIGNER (AGAIN)

SIGNATURE OF NOTARY



**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

**CAPACITY CLAIMED BY SIGNER (PRINCIPAL)**

- ☐ INDIVIDUAL  
☐ CORPORATE OFFICER

TITLE(S)

- ☒ PARTNER(S) ☐ LIMITED  
☒ GENERAL

- ☐ ATTORNEY-IN-FACT  
☐ TRUSTEE(S)  
☐ GUARDIAN/CONSERVATOR  
☐ OTHER:

**DESCRIPTION OF ATTACHED DOCUMENT**

ASSIGNMENT OF DEED OF TRUST

TITLE OR TYPE OF DOCUMENT

ONE

NUMBER OF PAGES

6-13-94

DATE OF DOCUMENT

ABSENT SIGNER (PRINCIPAL) IS REPRESENTING:  
NAME OF PERSON(S) OR ENTITY(ES)

CASA CARILLO PROPERTIES

NOTAR  
SIGNER(S) OTHER THAN NAMED ABOVE

CLARK COUNTY, NEVADA  
JOAN L. SWIFT, RECORDER  
RECORDED AT REQUEST OF:  
HILL & SANDFORD

15-068000.0280

CLARK COUNTY, NEVADA  
JOAN L. SWIFT, RECORDER  
RECORDED AT REQUEST OF:  
HILL & SANDFORD  
06-22-94 15121 KAK 3  
BOOK 940622 INST: 01554  
FEE: 9.00 RPTT: .00

RECORDING REQUESTED BY

9 4 0 6 2 2 0 1 5 5 5

(3)

AND WHEN RECORDED MAIL TO

NAME **HILL & SANDFORD**  
ADDRESS **800 W PRESIDIO AVE**  
CITY & STATE **SANTA BARBARA CA 93101**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

## Assignment of Deed of Trust

FOR VALUE RECEIVED, the undersigned hereby grants, assigns and transfers to Salvador Rodriguez, a married man all beneficial interest under that certain Deed of Trust dated July 1, 1980 executed by Mark G. Bernstein and Karin Bernstein

to Heritage Title and Escrow  
and recorded as Instrument No. 1209826 on July 9, 1980 in book 1250  
page of Official Records in the County Recorder's office of Clark County, Nevada

describing land therein as:

Lot Five (5) in Block One (1) of COLLEGE PARK NO. 3, as shown by map thereof on file in Book 4 of Plats, page 49, in the Office of the County Recorder of Clark County, Nevada.

### RECORDERS MEMO POSSIBLE POOR RECORD DUE TO QUALITY OF ORIGINAL DOCUMENT

TOGETHER with the note or notes therein described or referred to, the money due and to become due thereon with interest, and all rights accrued or to accrue under said Deed of Trust.

Dated June 13, 1994

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

SS.

On this the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_

\_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) subscribed to the within instrument and acknowledged that \_\_\_\_\_ executed the same.

CASA/CARRILLO PROPERTIES, A Partnership

By Salvador Rodriguez

Salvador Rodriguez, General Partner

Witness: Marcia Gehring

MARCIA GEHRINGER

FOR NOTARY SEAL OR STAMP

Title Order No. \_\_\_\_\_ Escrow No. \_\_\_\_\_

**SUBSCRIBING-WITNESS CERTIFICATE (WITNESS JURAT)**

No. 5808

State of California  
County of Santa Barbara

On this the 16th day of June 19 94, before me, the undersigned  
Notary Public, personally appeared Marcia Gehringer

☒ personally known to me - OR - ☐ proved to me on the oath/affirmation of  
NAME OF SUBSCRIBING WITNESS  
NAME OF PERSON (CREDIBLE WITNESS) WHO IDENTIFIES SUBSCRIBING WITNESS, who is personally known to me,

to be the person whose name is subscribed to  
the within instrument as a witness thereto, who,  
being by me duly sworn, deposes and says that  
she (he/she) was present and saw

Salvador Rodriguez

NAME OF ABSENT PRINCIPAL, SIGNER

the same person described in and whose name  
is subscribed to the within and annexed  
instrument as a party thereto, execute the  
same, and that said affiant subscribed  
her (his/her) name to the within  
instrument as a witness at the request of

Salvador Rodriguez

NAME OF PRINCIPAL SIGNED (ABSENTEE)

SIGNATURE OF NOTARY



**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent  
fraudulent reattachment of this form.

**CAPACITY CLAIMED BY SIGNER (PRINCIPAL)**

- ☐ INDIVIDUAL  
☐ CORPORATE OFFICER

TITLES

- ☒ PARTNER(S) ☐ LIMITED  
☒ GENERAL  
☐ ATTORNEY-IN-FACT  
☐ TRUSTEE(S)  
☐ GUARDIAN/CONSERVATOR  
☐ OTHER: \_\_\_\_\_

ABSENT SIGNER (PRINCIPAL) IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(ES)

CASA CARREILLO PROPERTIES

**DESCRIPTION OF ATTACHED DOCUMENT**

ASSIGNMENT OF DEED OF TRUST

TITLE OR TYPE OF DOCUMENT

ONE

NUMBER OF PAGES

6-13-94

DATE OF DOCUMENT

ABQ

SIGNER(S) OTHER THAN NAMED ABOVE

CLARK COUNTY, NEVADA  
JOAN L. SWIFT, RECORDER  
RECORDED AT REQUEST OF:  
HILL & SANDFORD  
06-22-94 15122 HAK 3  
BOOK: 940622 INST: 81555  
FEE: 9.20 AMT: 1.00

Exhibit “E”

Exhibit “E”



## NoteWorld Servicing Center

October 9, 2009

### VIA FACSIMILE AND MAIL

Mr. Malcolm P. LaVergne, Esq.  
The LaVergne Law Group  
320 East Charleston Boulevard, Suite 203  
Las Vegas, Nevada 89104

Re: Mark Bernstein v. NoteWorld, LLC, *et al.* (Case No. A09596386-C)

Dear Mr. LaVergne:

I am in receipt of the Summons and Complaint filed in the District Court Clark County, Nevada, Case No. A09596386-C by your client, Mr. Mark Bernstein.

After reviewing the allegations and claims for relief set forth in the Complaint, I was somewhat perplexed; most notably, by the allegations contained in Paragraph 15. Contrary to the allegations set forth therein, our records reflect that Mr. Bernstein has not "completed his payments" or "paid in full" either note (Account No. 300020095001054 or Account No. 300020095001053). In fact, he continued to make regular monthly payments for the entire period of April 2008 through July 2009 on both accounts. The last payments received from Mr. Bernstein were recorded on July 27, 2009.

As an initial matter, NoteWorld makes no claim to possession – in full or in part – to the properties at issue. Therefore, your client's quiet title claim against NoteWorld is erroneous. Second, because your client has not satisfied the terms of either note by rendering payment in full, his quiet title action is generally faulty. As of July 27, 2009, the principal balancing remaining on Account No. 300020095001054 is approximately \$8,728.80 and the principal balance remaining on Account No. 300020095001053 is approximately \$4,584.80. Unless your client has proof of full payoff, and thus, that he has satisfied the terms of one or both notes, his quiet title claim has no basis in law or fact.

Mr. Bernstein's complaint also alleges that the notices NoteWorld sent him regarding late fees were erroneous because he has paid "on-time throughout the history of the note payments." According to our records, Mr. Bernstein failed to make the following payments:

Mr. Malcolm P. LaVigne  
October 9, 2009  
Page 2

**Account No. 300020095001053**

- September 2001
- March 2002
- July 2007

**Account No. 300020095001054**

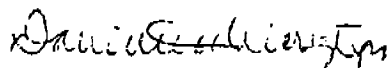
- March 2002
- July 2007

Under the terms of each Note Secured by a Deed of Trust, copies of which are attached hereto, payment is due on the first day of each month and "[i]n the event any payment is more than 15 days late, a late charge penalty of \$10.00 shall be paid." As indicated above, Account No. 300020095001053 was in arrears as of September 15, 2001 and started accruing a late penalty on September 16, 2001, and Account No. 300020095001054 was in arrears as of March 15, 2002 and started accruing a late penalty March 16, 2002. By notifying Mr. Bernstein that the accounts were accruing late penalties, NoteWorld acted consistent with the terms of the notes. If your client has some proof that payment was made on the above dates in a form of a cashed check or otherwise, please forward it to us immediately for further research. If your client has no proof, he may wish to seek a waiver of any late penalties that may be owed. To do so, however, he must contact Mr. Rodriguez directly. NoteWorld does not have the authority to waive late penalties; it is a matter between the parties. Notwithstanding the late penalty issue, even if Mr. Bernstein has proof that he made the unaccounted-for payments, the fact remains that he has not paid the notes in full and therefore, has not earned title to the properties at issue.

For the foregoing reasons, we would respectfully request that your client agree to voluntarily withdraw his Quiet Title action against NoteWorld. If he will not agree to do so voluntarily, NoteWorld will be forced to hire an attorney in Nevada to oppose the action. In that case, NoteWorld will seek judgment against Mr. Bernstein for any attorneys' fees and costs incurred to oppose his Quiet Title action and/or to defend the claims Mr. Bernstein has brought against NoteWorld.

If you would like to discuss this matter further, please feel free to call me at (253) 620-7042. In any event, I will follow-up with you early next week regarding your client's decision with respect to our request. Thank you for your anticipated cooperation.

Sincerely,



Danielle H. Kiersztyn  
General Counsel

Enclosures

Exhibit “F”

Exhibit “F”

**AFFIDAVIT OF HUONG X. LAM, ESQ. IN SUPPORT OF**  
**MOTION FOR ATTORNEY'S FEES AND COSTS**

STATE OF NEVADA       )  
                                      )ss  
COUNTY OF CLARK     )

HUONG X. LAM, ESQ., being first duly sworn deposes and states:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am an associate attorney with The Cooper Castle Law Firm, LLP, and I represent Defendant Noteworld, LLC, in the case titled Bernstein v. Noteworld, LLC, et. al., District Court Case No. A-09-596386-C.
2. I make this affidavit in support of the Motion for Attorney's Fees and Costs and am competent to testify as to all matters contained herein.
3. That Noteworld has incurred attorney's fees and costs in this litigation through February 9, 2010, in the amount of \$4,430.00. These attorney's fees and costs were incurred in reviewing all documents in the file, investigating the status of the title regarding the subject property; corresponding with attorney for Plaintiff Bernstein; preparing and drafting pleadings, including motions and order; communicating with my client; and conducting legal research.
4. That it is anticipated that an additional that Noteworld will incur an additional \$750.00 for having to prepare and draft the present Motion for Attorney's Fees and Costs, supporting Affidavit, and to attend the hearing.

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